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Judge Zilly

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AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON DEPUTY



06-CR-00466-DECL

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID RONALD MENDOZA,

Defendant.

NO. CR06-0466TSZ

PRELIMINARY ORDER OF
 FORFEITURE

Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, and based upon the guilty plea of DAVID RONALD MENDOZA to Conspiracy to Import more than 1,000 kilograms of Marijuana, as charged in Count 1 of the Superseding Indictment, in violation of Title 21, United States Code, Sections 952(a), 960(a)(1) and (b)(1)(G) and 963, and upon the terms of the Plea Agreement filed in this matter between DAVID RONALD MENDOZA and the United States, it is hereby:

ORDERED, ADJUDGED and DECREED that pursuant to Title 21, United States Code, Section 853, DAVID RONALD MENDOZA shall forfeit the following properties to the United States of America:

1. Real property commonly known as 2526 155th Place SE, Bellevue, Washington, King County Parcel #675130-0450, together with its Buildings, Improvements, Appurtenances, Fixtures, Attachments, and Easements, more particularly described as:
 Lot 30, except the North 10 feet; and the North 10 feet of Lot 29, Block 4, Phantom Lake View Division No. 2, according to the plat Recorded in Volume 57 of Plats, Pages 21-22, in King County, Washington,
2. The proceeds of the sale of the of real property commonly known as 31726 North Spotted Road, Deer Park, Washington, Spokane County Parcel #28092-

9065, totaling Seventy-Five Thousand Three-Hundred Sixty-Six Dollars and Fifty-Five Cents (\$75,366.55), more or less, and any interest yielded therefrom;

3. The proceeds of the sale of real property commonly known as 849 NW Wall Street, Bend, Oregon, Deschutes County Parcel #1-061 17 12 32 BD 06200 103806, together with its Buildings, Improvements, Appurtenances, Fixtures, Attachments, and Easements, more particularly described as:

Lot Seventeen (17) in the SUBDIVISION OF BLOCK FOUR (4) PLAT OF BEND, City of Bend, Deschutes County, Oregon,¹ and

4. Real property commonly known as 1135 Tacoma Avenue South, Tacoma, Washington, Pierce County Parcel #201111-010-0, together with its Buildings, Improvements, Appurtenances, Fixtures, Attachments, and Easements, more particularly described as:

Lot 17, Block 1111, Map of New Tacoma, W.t. According to the Plat Filed for Record February 3, 1875 in the Office of the Pierce County Auditor, in Pierce County Washington.

In particular, with respect to the real property commonly known as 1135 Tacoma Avenue South, Tacoma, Washington, more particularly described in item 4 above, the defendant shall forfeit all of his right, title and interest in said property, including but not limited to all his rights as beneficiary under the Deed of Trust dated June 18, 2007, recorded with the Pierce County Auditor on June 28, 2007, as document number 200706281060.

IT IS FURTHER ORDERED that the United States Department of Homeland Security, Customs and Border Protection, and/or its agents and representatives shall seize the above-described properties and maintain such seized properties in its custody and control until further order of this Court.

IT IS FURTHER ORDERED that pursuant to Title 21, United States Code, Section 853(n), the United States shall publish notice of the Preliminary Order of Forfeiture and of the intent of the United States to dispose of the properties in accordance with law. The notice shall be posted on an official government website for at least thirty (30) days. The notice shall state that any person, other than the defendant, having or claiming a legal interest in the above-described properties must file a petition with the Court within sixty (60) days of the first day of publication of notice on an official internet government forfeiture website,

¹ A Judgment of Forfeiture was obtained as to properties one through three in the related civil forfeiture action U.S. v. 2526 155th Place, SE, Bellevue, WA, *et al.* WDWA Case No. C07-0359TSZ.

1 currently www.forfeiture.gov, or within thirty-five (35) days of receipt of actual notice,
2 whichever is earlier.

3 The notice shall advise such interested persons that:

- 4 1. the petition shall be for a hearing to adjudicate the validity of the
5 petitioner's alleged interest in such properties;
- 6 2. the petition shall be signed by the petitioner under penalty of
7 perjury; and
- 8 3. the petition shall set forth the nature and extent of the
9 petitioner's right, title, or interest in the forfeited properties.

10 The petition shall also set forth any additional facts supporting the petitioner's claim
11 and the relief sought.

12 The United States shall also, to the extent possible, provide direct written notice as a
13 substitute for published notice to any person known to have alleged an interest in the above-
14 described properties that is the subject of this Preliminary Order of Forfeiture. Upon
15 adjudication of any third-party claims, this Court will enter a Final Order of Forfeiture
16 pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, in which all such
17 claims will be addressed.

18 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3) of the Federal Rules
19 of Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the
20 defendant at the time of sentencing and shall be made part of the sentence and included in
21 the judgment. Based upon the Plea Agreement and the guilty plea entered by the defendant
22 herein, the Court finds that the defendant had an interest in the forfeited properties. If no
23 third party files a timely claim this Order shall become the Final Order of Forfeiture as
24 provided by Rule 32.2(c)(2), Federal Rules of Criminal Procedure.


25 IT IS FURTHER ORDERED that after the disposition of any motion filed under Rule
26 32.2(c)(1)(A) of the Federal Rules of Criminal Procedure and before a hearing on any third
27 party petition, discovery may be conducted in accordance with the Federal Rules of Civil
28 Procedure upon a showing that such discovery is necessary or desirable to resolve factual
issues.

1 IT IS FURTHER ORDERED that the United States shall have clear title to the above-
2 described properties following the Court's disposition of all third party interests, or if none,
3 following the expiration of the period provided in Title 21, United States Code, Section
4 853(n), for the filing of third party petitions.

5 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this
6 Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of
7 Criminal Procedure.

8 The Clerk of the Court is directed to send a copy of this Preliminary Order of
9 Forfeiture to all counsel of record and twelve (12) "raised sealed" certified copies to the
10 United States Attorney's Office in Seattle, Washington.


11 DATED this 19th day of November, 2009.


12
13 
14 THOMAS S. ZILLY
15 United States District Judge

16 Presented by:

17 
18 SUSAN M. ROE
19 Assistant United States Attorney

20 
21 RICHARD E. COHEN
22 Assistant United States Attorney

23 
24 JEFFREY P. ROBINSON
25 Attorney for Defendant

26 
27 DAVID RONALD MENDOZA
28 Defendant